

## Message Text

CONFIDENTIAL

PAGE 01 KUALA 01574 01 OF 02 280634Z

12

ACTION L-02

INFO OCT-01 EUR-12 EA-06 IO-10 ISO-00 CIAE-00 DODE-00

PM-03 H-02 INR-07 NSAE-00 NSC-05 PA-01 PRS-01 SP-02

SS-15 USIA-06 MMS-01 CU-02 AID-05 SCA-01 /082 W

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FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC PRIORITY 9359

INFO AMEMBASSY BANGKOK

AMEMBASSY CANBERRA

USMISSION GENEVA

AMEMBASSY JAKARTA

AMEMBASSY LONDON

AMEMBASSY MANILA

USMISSION USUN NEW YORK

AMEMBASSY SINGAPORE

AMEMBASSY WELLINGTON

CINCPAC

C O N F I D E N T I A L SECTION 1 OF 2 KUALA LUMPUR 1574

CINCPAC FOR POLAD

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E.O. 11652: GDS

TAGS: PINT PINS MY

SUBJ: MALAYSIA'S RECORD ON HUMAN RIGHTS

REF: A. STATE 064959

B. STATE 012320

C. KL 1638, 4/11/74

1. FOLLOWING ARE SUMMARY AND INTRODUCTION OF EMBASSY'S REPORT  
ON MALAYSIA'S HUMAN RIGHTS RECORD WHICH, DUE TO VISIT OF  
INSPECTORS AND OTHER FACTORS, HAS BEEN DELAYED. AS DEPARTMENT  
WILL NOTE, EMBASSY'S ASSESSMENT CONTAINS OPINIONS THAT MAY NOT  
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PAGE 02 KUALA 01574 01 OF 02 280634Z

BE APPROPRIATE FOR RELEASE TO CONGRESS OR PUBLIC; THEREFORE,

EMBASSY REQUESTS OPPORTUNITY TO REVIEW ANY SUBMISSION THAT MAY BE PREPARED IN CONNECTION WITH MAP REVIEW INDICATED IN REF A.

2. BEGIN SUMMARY AND INTRODUCTION: MALAYSIA IS A DEMOCRATIC COUNTRY WITH A PARLIAMENTARY GOVERNMENT ON A WESTMINISTER PATTERN. PARLIAMENTARY GOVERNMENT HAS PREVAILED SINCE INDEPENDENCE IN 1957 AND GENERAL ELECTIONS HAVE BEEN HELD AT FIVE-YEAR INTERVALS (1959, 64, 69, AND 74) AS REQUIRED BY THE CONSTITUTION. THERE IS UNIVERSAL SUFFRAGE FOR CITIZENS TWENTY AND OVER. THE ELECTIONS OF AUGUST 1974 WERE HONESTLY ADMINISTERED, BY AMERICAN STANDARDS, AND GAVE THE GOVERNMENT OF PRIME MINISTER RAZAK A CLEAR POPULAR MANDATE.

3. SINCE ITS FORMATION IN 1956 THE MALAYSIAN GOVERNMENT (GOM) HAS HAD A GOOD RECORD OF PROTECTING FAMILY RIGHTS, RELIGIOUS FREEDOM (EXCEPT IN THE STATE OF SABAH), ACCESS TO LAW AND THE COURTS, PROTECTION OF PROPERTY RIGHTS, EMPLOYMENT AND SOCIAL SECURITY. OTHER THAN THE Milder FORMS OF THIRD-DEGREE INTER-ROGATION, GOVERNMENT AUTHORITIES HAVE ABSTAINED FROM TORTURE AND OTHER FORMS OF INHUMANE TREATMENT SPECIFIED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR).

4. MALAYSIA CAME INTO BEING, HOWEVER, DURING A VIOLENT COMMUNIST INSURGENCY WHICH CONTINUES IN MUCH REDUCED INTENSITY TO THIS DAY. THIS INSURGENCY WAS AND IS MANNED MAINLY BY DISAFFECTED PORTIONS OF THE CHINESE POPULATION. THERE IS ALSO A HISTORICAL TRADITION OF RACIAL STRIFE BETWEEN THE POLITICALLY DOMINANT MUSLIM MALAYS (44-46 PERCENT OF THE POPULATION) AND THE ECONOMICALLY DOMINANT, LARGELY NON-MUSLIM CHINESE (34-36 PERCENT) AND THERE ARE CENTRIPETAL FORCES AFFECTING THE NON-MALAY MAJORITY PEOPLES OF THE BORNEAN STATES OF SABAH AND SARAWAK. BORN IN VIOLENCE, THREATENED FROM INFANCY BY RACIAL AND RELIGIOUS CHAUVINISM, ATTACKED IN EARLY CHILDHOOD BY ITS NEIGHBOR AND NOW CLOSE ALLY INDONESIA ASSISTED BY A SMALL FIFTH COLUMN, MALAYSIA'S FOUNDING FATHERS DID NOT ADD A BILL OF RIGHTS TO ITS CONSTITUTION. ON THE CONTRARY, THE FABRIC OF NATIONAL UNITY IS STILL SO FRAGILE THAT THE UNRESTRICTED EXERCISE OF INDIVIDUAL OR GROUP FREEDOMS IS VIEWED BY POLITICIANS, GOVERNMENT OFFICIALS AND A CONFIDENTIAL

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PAGE 03 KUALA 01574 01 OF 02 280634Z

LARGE PART OF THE POPULATION, BOTH MALAY AND CHINESE, AS SUICIDAL.

5. IN THE WORDS OF A MINISTRY OF INFORMATION PAMPHLET, WHILE THE CONSTITUTION "CONFERS ON A CITIZEN THE RIGHT OF FREE SPEECH, ASSEMBLY AND ASSOCIATION" THESE ARE "SUBJECT TO LIMITATIONS IMPOSED BY LAW." FURTHERMORE, "THE RIGHTS AND FREEDOMS GUARANTEED BY THE CONSTITUTION DO NOT INCLUDE THE

RIGHT TO OVERTHROW THE GOVERNMENT EITHER BY FORCE OR BY OTHER UNCONSTITUTIONAL MEANS." ACCORDING TO THE AUTHORITY ON THE CONSTITUTION, SEVERAL OF THE "FUNDAMENTAL LIBERTIES" ARE SUBSTANTIALLY QUALIFIED AND "ALL, EXCEPT RELIGION, ARE SUBJECT TO BE OVERRIDDEN BY EMERGENCY LEGISLATION."

6. "EMERGENCY LEGISLATION" CONSISTS OF A NUMBER OF LAWS AND ORDINANCES WHICH PERMIT THE GOVERNMENT TO ARREST AND DETAIN CITIZENS AND NON-CITIZENS "ARBITRARILY" IN THE SENSE OF THE UDHR AND TO CONFINED THEM FOR LONG PERIODS WITHOUT PUBLIC TRIAL. THE PRINCIPAL LAW IN THIS RESPECT IS THE INTERNAL SECURITY ACT (ISA) OF 1960, MOST RECENTLY REVISED IN 1972. OTHER ACTS AND ORDINANCES INCLUDE THE EMERGENCY (PUBLIC ORDER AND PREVENTION OF CRIME) ORDINANCE OF 1969, THE PREVENTION OF CRIME ORDINANCE OF 1959 AND THE OFFICIAL SECRETS ACT OF 1972. THERE ARE ALSO SEPARATE ORDINANCES COVERING SECURITY IN SABAH AND SARAWAK. UNDER THESE STATUTES, "PREJUDICIAL ACTIVITIES" INCLUDE CRIMINAL ACTS, PROVOKING POLITICAL OR ECONOMIC UNREST, SEDITION, COMMUNIST SUBVERSION, VIOLATIONS OF CENSORSHIP, AND TRESPASS IN SPECIFIED SECURITY AREAS.

7. IN FEBRUARY 1975 THERE WERE APPROXIMATELY 735 PEOPLE BEING DETAINED IN MALAYSIA UNDER THE ISA, THE MOST IMPORTANT OF THE LAWS LISTED ABOVE. UNDER THE ISA, A SUSPECT MAY BE DETAINED UP TO 60 DAYS ON THE ISSUANCE OF AN ORDER BY A MAGISTRATE BUT THE ORDER AND THE REASONS FOR SEEKING THE ORDER NEED NOT BE MADE PUBLIC. AFTER 60 DAYS, A DETAINEE MAY BE COMMITTED FOR TWO YEARS BY AN ORDER OF THE COURTS ON PETITION BY THE GOVERNMENT. THIS PETITION IS REVIEWED BY A REPUTEDLY IMPARTIAL PANEL, THE INTERNAL SECURITY ADVISORY BOARD (ISAB), REGARDING COMMITMENT OR RELEASE, AND THE COMMITMENT ORDER IS REVIEWED THROUGHOUT THE PERIOD OF DETENTION AT SIX MONTH INTER-CONFIDENTIAL

CONFIDENTIAL

PAGE 04 KUALA 01574 01 OF 02 280634Z

VALS. THADETAINEE CAN CONSULT LEGAL COUNSEL BUT MAY NOT BE REPRESENTED BY COUNSEL BEFORE THE ISAB. CHALLENGES TO THE COMMITMENT ORDER CAN BE MADE IN THE COURTS ON PROCEDURAL GROUNDS. THE ORDER MAY BE RENEWED EVERY TWO YEARS. THE MOST IMPORTANT FACTOR IN OBTAINING RELEASE FROM DETENTION UNDER THE ISA IS FOR THE DETAINEE TO RECALL THE ACTIONS LEADING TO HIS DETENTION AND TO ACCEPT LIMITATIONS ON HIS POLITICAL AND PERSONAL ACTIVITIES AFTER RELEASE. INDEPENDENT OBSERVERS REPORT THAT THE CONDITIONS OF CONFINEMENT ARE HUMANE AND IN THE CASE OF A VIP POLITICAL DETAINEE CAN BE COMFORTABLE. CONTACT WITH FAMILIES AND BUSINESS ASSOCIATES IS GENERALLY PERMITTED EXCEPT IN THE CASES OF THE MOST DANGEROUS COMMUNIST TERRORISTS.

CONFIDENTIAL

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PAGE 01 KUALA 01574 02 OF 02 272010Z

21

ACTION L-02

INFO OCT-01 EUR-12 EA-06 IO-10 ISO-00 CIAE-00 DODE-00

PM-03 H-02 INR-07 NSAE-00 NSC-05 PA-01 PRS-01 SP-02

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P R 260830Z MAR 75

FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC PRIORITY 9360

INFO AMEMBASSY BANGKOK

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C O N F I D E N T I A L SECTION 2 OF 2 KUALA LUMPUR 1574

CINCPAC FOR POLAD

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8. HISTOLOGICALLY, THE ISA HAS BEEN APPLIED MAINLY TO COMMUNIST TERRORISTS AND UNDERGROUND CADRES, ALTHOUGH A FEW MALAY AND CHINESE CHAUVINIST POLITICAL LEADERS HAVE BEEN DETAINED WHOSE ACTIVITIES PREJUDICED RACIAL HARMONY (E.G., THE PRESENT MINISTER OF EDUCATION WHO WAS DETAINED FOR SEVERAL MONTHS FOLLOWING THE 1969 RACIAL DISTURBANCES). IT HAS ALSO BEEN APPLIED TO POLITICAL DISSENTERS, GENERALLY LEFT-WING NON-CONFORMISTS. UNTIL RECENTLY, WHEN THE ISA WAS USED BOTH AGAINST DEMONSTRATING STUDENTS AND AGAINST OFFICIALS OF A LEGALLY CONSTITUTED OPPOSITION PARTY IN SARAWAK, THE USE OF THE ISA IN THE AREA OF NORMAL POLITICS HAS BEEN SPARING. AT THIS JUNCTURE IT IS NOT CLEAR WHETHER THE

CONFIDENTIAL

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PAGE 02 KUALA 01574 02 OF 02 272010Z

GOVERNMENT HAS BEGUN A PROCESS OF EXPANDING ITS USE IN ORDER TO STIFLE THE REMAINING OPPOSITION PARTIES OR WHETHER RECENT DETENTIONS ARE ABERRATIONS BROUGHT ABOUT BY CONFUSED AND DILATORY DECISION-MAKING BY THE TOP LEADERSHIP.

9. THERE IS LITTLE IN THE MALAYSIAN RECORD ON HUMAN RIGHTS THAT WOULD CREATE DIFFICULTIES FOR THE GOM IN THE INTERNATIONAL ARENA. WHILE THERE HAVE BEEN SOME EFFORTS TO GET AMNESTY INTERNATIONAL AND THE UNITED NATIONS TO FOCUS ON CASES OF VIOLATIONS OF INDIVIDUAL RIGHTS THESE EFFORTS HAVE HAD LITTLE SUCCESS. WE ASSUME THIS LACK OF INTEREST IS BECAUSE VIOLATIONS ARE NEITHER AS FLAGRANT NOR AS WIDESPREAD AS IN MANY OTHER COUNTRIES. THE GOM HAS INDICATED THAT ONE REASON FOR RECENT USE OF THE ISA AGAINST STUDENTS AND OTHER DISSENTERS IS THAT THE CURRENT WORLD ECONOMICS DOWN-TURN HAS CREATED SOME POTENTIAL FOR DOMESTIC UNREST WHICH, BY DEFINITION, THREATENS THE PEACE AND SECURITY OF THE NATION. IT IS OUR OPINION, HOWEVER, THAT EVEN IF THE GOVERNMENT PERSISTS IN USING THE ISA TO DISCOURAGE PROTEST AND CRITICISM, AN OBJECTIVE APPRAISAL WILL STILL SHOW IT TO BE MORE HUMANE, LIBERAL AND FAIR IN ITS APPROACH TO HUMAN RIGHTS THAN ALL BUT A HANDFUL OF NON-WESTERN GOVERNMENTS.

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